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CALIFORNIA SPORTFISHING

9 PROTECTION ALLIANCE

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11 **UNITED STATES DISTRICT COURT**

12 **EASTERN DISTRICT OF CALIFORNIA**

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14 CALIFORNIA SPORTFISHING  
15 PROTECTION ALLIANCE,

16 Plaintiff,

17 v.

18 PACIFIC BELL TELEPHONE COMPANY

19 Defendant.

Case No: 2:21-cv-00073-JDP

**DECLARATION OF J. KIRK BOYD IN  
SUPPORT OF PLAINTIFF'S MOTION TO  
AMEND SCHEDULING ORDER**

Hearing Date: January 11, 2024

Time: 10:00 a.m.

Courtroom: 9, 13<sup>th</sup> Floor

Magistrate Judge: Hon. Jeremy D. Peterson

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**DECLARATION**

I, J. Kirk Boyd, declare as follows:

1. I am an attorney, licensed to practice law in all courts of the State of California. I am counsel for Plaintiff California Sportfishing Protection Alliance (“CSPA”) in this this matter. I have personal knowledge of the facts in this Declaration and, if asked, could and would testify to the accuracy of these facts in a court of law.

2. I began having conversations with potential experts and consultants regarding sampling and investigation of Defendant’s telecommunications cables in Lake Tahoe, which are at issue in this case (“Cables”) in early August 2023, when the Consent Decree was vacated.

3. Prior to submitting a proposed schedule on August 17, 2023 and a revised schedule on August 25, 2023, neither I, nor any other CSPA counsel, had retained consultants and experts, and no sampling or analysis plan had been developed. However, I anticipated, after initial conversations with potential experts, that sampling could occur in October 2023.

4. At the time CSPA proposed the schedules, I was aware of the third party subpoenas that Defendant had issued to entities that had taken samples around the Cables, such as Marine Taxonomic Services and Beyond the Blue. I anticipated that those subpoenas generally in accordance with the deadlines in those requests.

5. After CSPA had proposed a schedule, CSPA’s existing counsel determined that CSPA needed additional legal resources to litigate this matter.

6. CSPA propounded discovery on Defendant, including requests for admission, interrogatories, and requests for production of documents on October 4, 2023. Defendant sought a two-week extension to respond to the discovery requests, which CSPA granted.

7. Defendant served responses to CSPA’s first set of interrogatories, requests for admission, and requests for production of documents on November 17, 2023. I reviewed these responses. Defendant has wholly refused to answer at least nine out of sixteen interrogatories, and it is CSPA’s position that the objections provided are inapplicable. Similarly, Defendant has objected to each and every request for production of documents and has wholly refused to respond to seven out of thirty-eight requests. Defendant only produced thirteen documents in response to thirty-eight

1 requests for production and has not yet provided a date by which it will serve all other responsive  
2 documents.

3 I swear under penalty of perjury under the laws of the State of California and the United States  
4 that the foregoing is true and correct. This declaration was executed on November 27, 2023 in  
5 Olympic Valley, California.

6  
7 s/ J. Kirk Boyd  
J. Kirk Boyd